

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

RAJ CHRISTOPHER GUPTA,

Plaintiff,

No. CIV S-00-1095 GEB GGH P

vs.

C.A. TERHUNE, et al.,

Defendants.

ORDER

\_\_\_\_\_/

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. This action is set for trial on May 9, 2006. The remaining issue in this action is whether defendants violated plaintiff's Eighth Amendment rights by denying him outdoor exercise from January 2000 to October 2000.

On April 7, 2006, plaintiff filed a summary judgment motion and a motion for sanctions. Plaintiff argues that when defendants gave him their trial exhibits at the March 31, 2006, trial confirmation hearing, they included a "smoking gun" memorandum. This memorandum, dated February 21, 2000, attached to plaintiff's motion, states that Facility A has been lockdown since February 17, 2001. This memorandum also contains a handwritten notation stating, "unlock on February 22, 2001." Plaintiff argues that this memorandum shows that his earlier filed summary judgment motion should have been granted.

1           On April 11, 2006, defendants filed an opposition to plaintiff's summary  
2 judgment motion. Defendants state, and this court agrees, that the date of the memorandum is a  
3 clerical error. The date of the memorandum should have been February 21, 2001. This  
4 document does not support plaintiff's claim that he is entitled to summary judgment based on the  
5 events occurring in 2000. In addition, after reviewing the record, the court finds that sanctions  
6 are not warranted.

7           Accordingly, IT IS HEREBY ORDERED that plaintiff's April 7, 2006, motion for  
8 summary judgment and sanctions is denied.

9 Dated: May 1, 2006

10  
11                               /s/ Garland E. Burrell, Jr.  
12                               GARLAND E. BURRELL, JR.  
13                               United States District Judge  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26